

**Introduced by Senators Escutia and Alarcon**

February 19, 2004

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An act to amend Sections 49430, 49431, 49431.5, and 49433.7 of, and to add Section 49431.7 to, the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 1566, as introduced, Escutia. Schools: food and beverage nutrition standards.

Existing law restricts the sale of certain beverages and food items at elementary, middle, or junior high schools, with certain exceptions. Existing law makes the restrictions on the sale of food items at elementary schools operative if funding is appropriated for specified nutrition purposes.

This bill would place similar restrictions on the sale of certain beverages and food items at high schools.

The bill would delete the funding contingency applicable to elementary schools.

The bill would, in addition, revise and recast provisions relating to the sale of beverages and food items at elementary, middle, or junior high schools and make other conforming changes.

Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced price meals. Existing law requires the State Department of Education to establish a pilot program in which 10 high schools, middle schools or any combination thereof, adopt specified food sale requirements.

This bill would specify that middle schools participating in that pilot program are eligible for the reimbursement.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 49430 of the Education Code is  
2 amended to read:  
3 49430. As used in this article, the following terms have the  
4 following meanings:  
5 (a) “Elementary school” means a public school that maintains  
6 any grade from kindergarten to grade 6, inclusive, but no grade  
7 higher than grade 6.  
8 (b) “Middle or junior high school” means any public school  
9 that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.  
10 (c) “High school” means any public school maintaining any of  
11 grades 10 to 12, inclusive.  
12 (d) “Full meal” means any combination of food items that  
13 meet a USDA-approved meal pattern.  
14 (e) “Added sweetener” means any additive other than 100  
15 percent fruit juice that enhances the sweetness of a beverage.  
16 SEC. 2. Section 49431 of the Education Code is amended to  
17 read:  
18 49431. (a) At each elementary school, ~~and in those schools~~  
19 ~~participating in the pilot program created pursuant to Section~~  
20 ~~49433.7,~~ the sale of all foods *and beverages* on school grounds  
21 shall be approved for compliance with the nutrition standards in  
22 this section by the person or persons responsible for implementing  
23 these provisions as designated by the school district.  
24 (b) (1) At each elementary school, the only food that may be  
25 sold to a pupil during breakfast and lunch periods is food that is  
26 sold as a full meal. This paragraph does not prohibit the sale of  
27 fruit, nonfried vegetables, legumes, *or beverages,* ~~dairy products,~~  
28 ~~or grain products~~ as individual food items *during breakfast or*  
29 *lunch periods* if they meet the requirements set forth in this  
30 subdivision.  
31 (2) An individual food item sold to a pupil during morning or  
32 afternoon breaks at an elementary school shall meet all of the  
33 following standards:  
34 (A) Not more than 35 percent of its total calories shall be from  
35 fat. This subparagraph does not apply to the sale of nuts or seeds.

(B) Not more than 10 percent of its total calories shall be from saturated fat.

(C) Not more than 35 percent of its total weight shall be composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.

(c) *Only the following beverages may be sold to a pupil at an elementary school:*

(1) *Drinking water.*

(2) *100 percent milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.*

(3) *100 percent fruit juices.*

(4) *Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners.*

(d) An elementary school may permit the sale of food items or beverages that do not comply with subdivision (a) or (b) or (c) as part of a school fundraising event in any of the following circumstances:

(1) The items are sold by pupils of the school and the sale of those items takes place off of school premises.

(2) The items are sold by pupils of the school and the sale of those items takes place at least one-half hour after the end of the schoolday.

~~(d)~~

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

~~(e) (1) This section shall become operative only if moneys are appropriated for each of the following purposes:~~

~~(A) Providing nutrition policy development grants pursuant to subdivision (e) of Section 49433.~~

~~(B) Support and technical assistance to school districts pursuant to Section 49433.5.~~

~~(C) Increasing meal reimbursements pursuant to Section 49430.5.~~

~~(2) The department shall file a written statement with the Secretary of the Senate and the Chief Clerk of the Assembly when funds have been appropriated to meet the conditions of paragraph (1). The statement shall state the annual Budget Act or other measure in which each appropriation was made.~~

1 SEC. 3. Section 49431.5 of the Education Code is amended  
2 to read:

3 ~~49431.5. (a) Commencing July 1, 2004, regardless of the~~  
4 ~~time of day, beverages, other than water, milk, 100 percent fruit~~  
5 ~~juices, or fruit-based drinks that are composed of no less than 50~~  
6 ~~percent fruit juice and have no added sweeteners, may not be sold~~  
7 ~~to a pupil at an elementary school.~~

8 ~~(b) An elementary school may permit the sale of beverages that~~  
9 ~~do not comply with subdivision (a) as part of a school fundraising~~  
10 ~~event in any of the following circumstances:~~

11 ~~(1) The items are sold by pupils of the school and the sale of~~  
12 ~~those items takes place off the premises of the school.~~

13 ~~(2) The items are sold by pupils of the school and the sale of~~  
14 ~~those items takes place one-half hour or more after the end of the~~  
15 ~~school day. At each middle or junior high school, the sale of all~~  
16 ~~foods and beverages on school grounds shall be approved for~~  
17 ~~compliance with the nutrition standards in this section by the~~  
18 ~~person or persons responsible for implementing these provisions~~  
19 ~~as designated by the school district.~~

20 ~~(b) An individual food item sold to a pupil in a middle or junior~~  
21 ~~high school shall meet all of the following standards:~~

22 ~~(A) Not more than 35 percent of its total calories shall be from~~  
23 ~~fat. This subparagraph does not apply to the sale of nuts or seeds.~~

24 ~~(B) Not more than 10 percent of its total calories shall be from~~  
25 ~~saturated fat.~~

26 ~~(C) Not more than 35 percent of its total weight shall be~~  
27 ~~composed of sugar. This subparagraph does not apply to the sale~~  
28 ~~of fruits or vegetables.~~

29 ~~(c) Commencing July 1, 2004, from~~ From one-half hour before  
30 the start of the schoolday to one-half hour after the end of the  
31 schoolday, only the following beverages may be sold to a pupil at  
32 a middle or junior high school:

33 ~~(1) Fruit-based drinks that are composed of no less than 50~~  
34 ~~percent fruit juice and have no added sweeteners.~~

35 ~~(2) Drinking water.~~

36 ~~(3) Milk~~

37 ~~(2)~~ 100 percent milk, including, but not limited to, chocolate  
38 milk, soy milk, rice milk, and other similar dairy or nondairy milk.

39 ~~(3) Fruit-based drinks that are composed of no less than 50~~  
40 ~~percent fruit juice and have no added sweeteners.~~

(4) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(d) A middle or junior high school may permit the sale of *food items or* beverages that do not comply with ~~subdivision~~ *subdivision (b) or (c)* as part of a school *fundraising* event if the sale of those items meets all of the following criteria:

(1) The sale occurs during a school-sponsored event and takes place at the location of that event after the end of the schoolday.

(2) Vending machines, pupil stores, and cafeterias are not used ~~no sooner than for the sale prior to~~ one-half hour after the end of the schoolday.

~~(e) This section does not prohibit an elementary, middle or junior high school from making available through a vending machine any beverage allowed under subdivision (a) or (c) at any time of day, or, in middle and junior high schools, any product that does not comply with subdivision (c) if the product only is available not later than one-half hour before the start of the schoolday and not sooner than one-half hour after the end of the schoolday.~~

~~(f) For the purposes of this section, “added sweetener” means any additive that enhances the sweetness of the beverage, including, but not limited to, added sugar, but does not include the natural sugar or sugars that are contained within the fruit juice which is a component of the beverage.~~

~~(g) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.~~

SEC. 4. Section 49431.7 is added to the Education Code, to read:

49431.7. (a) At each high school, the sale of all foods and beverages on school grounds shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) An individual food item sold to a pupil in high school shall meet all of the following standards:

(1) Not more than 35 percent of its total calories shall be from fat. This subparagraph does not apply to the sale of nuts or seeds.

(2) Not more than 10 percent of its total calories shall be from saturated fat.

1 (3) Not more than 35 percent of its total weight shall be  
2 composed of sugar. This subparagraph does not apply to the sale  
3 of fruits or vegetables.

4 (c) From one-half hour before the start of the schoolday to  
5 one-half hour after the end of the schoolday, only the following  
6 beverages may be sold to a pupil at a high school:

7 (1) Drinking water.

8 (2) 100 percent milk, including, but not limited to, chocolate  
9 milk, soy milk, rice milk, and other similar dairy or nondairy milk.

10 (3) Fruit-based drinks that are composed of no less than 50  
11 percent fruit juice and have no added sweeteners.

12 (4) An electrolyte replacement beverage that contains no more  
13 than 42 grams of added sweetener per 20-ounce serving.

14 (d) A high school may permit the sale of food items or  
15 beverages that do not comply with subdivision (b) or (c) as part of  
16 a school *fundraising* event if the sale of those items meets all of the  
17 following criteria:

18 (1) The sale occurs during a school-sponsored event and takes  
19 place at the location of that event after the end of the schoolday.

20 (2) Vending machines, pupil stores, and cafeterias are not used  
21 for the sale prior to one-half hour after the end of the schoolday.

22 (e) Notwithstanding Article 3 (commencing with Section  
23 33050) of Chapter 1 of Part 20, compliance with this section may  
24 not be waived.

25 SEC. 5. Section 49433.7 of the Education Code is amended  
26 to read:

27 49433.7. The State Department of Education shall establish a  
28 three-year pilot program in which a total of not less than 10 high  
29 schools, middle schools, or any combination thereof, that apply are  
30 selected to participate. Although the selection process shall be  
31 ~~essentially~~ random, the selection process shall be weighted so that  
32 the pilot program contains participants that, as a group, are  
33 representative of the geographic diversity of the state. The pilot  
34 program shall commence in the fall of the 2002–03 school year.  
35 Participating districts will be eligible to receive a grant pursuant  
36 to subdivision (c) of Section 49433. ~~Districts will be eligible for~~  
37 *and* an increased reimbursement rate for free and reduced price

- 1 meals served at participating *middle and* high schools as set forth
- 2 in Section 49430.5.

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